

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Home Department 'A'

Notification

HD.EMR.SWB-III/72-A

Below Order No. 28/8/71-Poll. II dated 3rd January, 1972 from the Ministry of Home Affairs, New Delhi, is hereby republished for general information.

M. K. Bhandari, Under Secretary (Home).

Panaji, 20th January, 1972.

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

(Grih Mantralaya)

New-Delhi-1, the 3rd January, 1972
13 Pausa, 1893

Order

28/8/71-Poll. II

G. S. R. — In exercise of the powers conferred by sub-section (1) of section 34 of the Defence of India Act, 1971 (42 of 1971) the Central Government hereby directs that the powers conferred on by rule 52 of the Defence of India Rules, 1971, shall, in so far as photography at Civil Aerodromes is concerned, be also exercised and discharged by the officers mentioned below, namely: —

1. The Director General of Civil Aviation.
2. The Deputy Director General of Civil Aviation.
3. The Director, Regulations and Information.

Sd/-

B. K. GOSWAMI

Deputy Secretary to the Government of India

Notification

HD. EMR. SWB-III/71-A

Below Notification No. 37-TAG(54)/71 dated 17th January 1972 from the Ministry of Shipping and Transport, Government of India, New Delhi, is hereby republished for general information.

M. K. Bhandari, Under Secretary (Home).

Panaji, 2nd February, 1972.

GOVERNMENT OF INDIA

MINISTRY OF SHIPPING AND TRANSPORT

(Transport Wing)

New Delhi, the 17th January, 1972

Notification

In pursuance of rules 100, 101 and 103 of the Defence of India Rules, 1971, the Central Government hereby makes the following Order in regard to compensation payable for requisitioning or acquisition of motor vehicles: —

I. In rule 100 of the said rules,

(1) the rate of interest referred to in clause (i) shall be six per cent per annum (simple interest);

(2) the rate of depreciation referred to in clause (ii) shall be twenty-five per cent. per annum and depreciation shall be calculated —

(a) on the basis of the cost of the vehicle if, being new, it had been purchased less than a year before it is requisitioned;

(b) in any other case, on the basis of its written down value on the anniversary of its purchase as a new vehicle (that is to say, on the last date of completion of a whole number of years from the date of its purchase as a new vehicle) which falls on or before the date from which compensation is payable, notwithstanding that such purchase had not been made by the persons from whom the vehicle has been requisitioned.

Explanation. — The term written-down value shall have the same meaning as in clause (ii) of sub-section (1) of Section 32, of the Income-tax Act, 1961 (43 of 1961);

(3) the percentage referred to in clause (iii) shall be six per cent of the written-down value of the vehicle calculated on the basis of the rate of depreciation and in the manner indicated in sub-item (2);

(4) the further amount required to be specified under clause (iv) shall be equal to a sum representing the difference between the daily rates of hire, fixed by the State Transport Authority constituted under section 44 of the Motor Vehicles Act, 1939 (4 of 1939) and the compensation work out in accordance with sub-items (1), (2) and (3).

II. The depreciation referred to in the first proviso to rule 101 of the said rules shall be calculated at twenty per cent. per annum and in the manner prescribed in sub-item (2) of item I.

III. (1) The compensation as determined by the competent authority for requisitioning or acquisition of a vehicle shall be paid within a period of two months from the date on which it falls due.

(2) The rate of interest referred to in the proviso to rule 103 of the said rules shall be $4\frac{1}{2}$ per cent per annum (simple interest).

(3) After compensation in arrear on the first day of each month following the date of requisition of a vehicle has been worked out, interest shall be payable on such part of that amount as has been outstanding for more than two months, periods of less than a month being ignored for the purpose of computing the interest.

Sd/-

K. SIVARAJ

Joint Secretary to the Govt. of India.

Law and Judicial Department

Notification

LD/6/72/A

The Emergency Risks (Undertakings) Insurance Act, 1971 (51 of 1971) which was recently passed by the Parliament and assented to by the President of India is hereby published for the general information of the public.

V. L. Dandwate, Under Secretary.

Panaji, 14th January, 1972.

The Emergency Risks (Undertakings) Insurance Act, 1971

AN

ACT

to make certain provisions for the insurance of certain property in India against damage arising from emergency risks and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title, extent and duration. — (1) This Act may be called the Emergency Risks (Undertakings) Insurance Act, 1971.

(2) It extends to the whole of India.

(3) It shall remain in force during the period of operation of the Proclamation of Emergency issued by the President under clause (1) of article 352 of the Constitution on the 3rd day of December, 1971, and for such further period as the Central Government may, by notification in the Official Gazette, declare to be the period of emergency for the purposes of

this Act, but its expiry shall not affect anything done or omitted to be done before such expiry and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act as if it had been repealed by a Central Act. 10 of 1897

2. Definitions. — In this Act, unless the context otherwise requires, —

(a) "building" includes foundations, plinths, floors, staircases, tanks, engine and boiler beds, chimneys, flues and boundary walls;

(b) "emergency risks" means such risks arising from —

(i) action taken by an enemy or action taken in combating an enemy or in repelling an imagined attack by an enemy;

(ii) any explosion or fire which involves any explosives or munitions or other dangerous things required for the purposes of defence against any action of an enemy and which happens or is caused by, through, or in connection with, the manufacture, storage or transportation of any such explosives, munitions or other dangerous things;

(iii) measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring (whether accidentally or not) as the direct result of any such action as is described in sub-clause (i) or of any such explosion or fire as is described in sub-clause (ii);

(iv) precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by an enemy, being measures involving risk to property;

(v) precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action, being measures involving risk to property;

(vi) precautionary or preparatory measures taken under proper authority with a view to denying facilities to an enemy, being measures involving damage to or diminution of the value of property;

(c) "enemy" means —

(i) any person or country committing external aggression against India;

(ii) any person belonging to a country committing such aggression;

(iii) such other country as may be declared by the Central Government to be assisting the country committing such aggression;

(iv) any person belonging to such other country;

(d) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948;

63 of 1948

(e) "factory building" includes all buildings comprised in the factory, and such other buildings (including residential buildings for staff and workmen, hospitals and welfare centres) within a radius of three kilometres from the main factory building as are in the same ownership or

occupation as the factory and are used for the purposes of the factory;

(f) "Fund" means the Emergency Risks (Undertakings) Insurance Fund constituted under section 7;

(g) "inland vessel" means a vessel not ordinarily plying outside the limits of the territorial waters surrounding India;

(h) "insurable value" means the value of the property as ascertained for the purposes of insurance under this Act;

(i) "occupier" of a factory has the meaning assigned to it in clause (n) of section 2 of the Factories Act, 1948; 63 of 1948

(j) "owner", in relation to property insurable under this Act, means the owner of such property and includes, when parts of such property in relation to an undertaking to which this Act applies are owned by different persons, each such person in respect of the part owned by him;

(k) "policy or policy of insurance" means a contract of insurance issued under the Scheme and includes a policy of insurance or renewal endorsement;

(l) "property insurable under this Act" means —

(i) in relation to any factory, factory buildings, and, except where they are for the time being goods insurable under the Emergency Risks (Goods) Insurance Act, 1971, all plant and machinery in the factory, all materials in the factory for use in the production or transmission of motive power, or in the maintenance of plant and machinery (including lubricants) or in the maintenance of factory buildings;

(ii) in relation to Electric Supply Undertakings, the stations, sub-stations, switch houses and transformer houses, in addition to the insurable property referred to in sub-clause (i) of this clause;

(iii) in relation to hydro-electric supply undertakings, the whole of sluice houses, valve houses, water-pipe lines, penstocks and any other plant or machinery appertaining to the intake of hydraulic power;

(iv) in relation to mines as defined in the Mines Act, 1952, plant and machinery, whether above or below ground, buildings including inclines and situated within a radius of three kilometres from the mine excavation and in relation to such plant, machinery and buildings and materials above ground as would, if the mine were a factory, be included in property insurable under this Act under sub-clause (i) of this clause; 35 of 1952

(v) in relation to gas supply undertakings, the whole of distribution systems, in addition to the insurable property referred to in sub-clause (i) of this clause;

(vi) in relation to any trading Corporation or any body of Port Trustees or Commissioners, or any other person specified in this behalf by the Central Government, owning inland vessels and all inland vessels (including the

hull, machinery and fittings thereof), fuel carried thereon and stores carried therein for the use of the crew, owned by it or him, as the case may be, where such vessels, fuel and stores are not for the time being plant or materials insurable in relation to a factory under this Act and the Scheme thereunder, or goods insurable under the Emergency Risks (Goods) Insurance Scheme made under the Emergency Risks (Goods) Insurance Act, 1971;

(vii) in relation to oil mines and oil refineries, in addition to properties referred to in sub-clause (i) or sub-clause (iv) of this clause, as the case may be, derricks, drills and rigs and group gathering stations and storage tanks of oil mines, plant and machinery required for pumping, refining or processing any mineral oil, and pipe lines and all buildings of such installations within a radius of three kilometres thereof;

(viii) in relation to tea estates, in addition to the properties referred to in sub-clause (i) of this clause, standing tea crops in any garden belonging to the owner of any factory;

Provided that no property shall be deemed to be insurable under this Act in respect of a period if such property is, before payment has been made of the premium under this Act for that period, in the custody, control or possession of the enemy;

(m) "quarter" means a period of three months commencing on the first day of January, April, July or October;

(n) "Scheme" means the Emergency Risks (Undertakings) Insurance Scheme made under this Act;

(o) "undertaking to which this Act applies" includes —

(i) factories,

(ii) electric supply undertakings, hydro-electric supply undertakings and State Electricity Boards constituted under the Electricity (Supply) Act, 1948, 34 of 1948

(iii) mines, as defined in the Mines Act, 1952, 35 of 1952

(iv) gas supply undertakings,

(v) oil mines and oil refineries,

(vi) tea estates,

(vii) any trading Corporation or any body of Port Trustees or Commissioners or any other person specified in this behalf by the Central Government, owning inland vessel,

but does not include any undertaking which is owned and departmentally run by Government or any undertaking which is exempted under section 15 from the provisions of this Act;

(p) "vessel" means a vessel the value of which including the hull, machinery and fittings but excluding cargo, fuel and stores carried for the use of the crew, as ascertained for the purpose of insurance under the Scheme, exceeds two thousand and five hundred rupees, propelled wholly or in part by steam, electrical or mechanical power, or adapted for towing by a vessel so propelled, and includes any such vessel while used as a place of habitation or for storage of goods.

but does not include a vessel of the type commonly called country craft.

CHAPTER II

Emergency Risks (Undertakings) Insurance Scheme

3. Emergency Risks (Undertakings) Insurance Scheme.—(1) The Central Government may, by notification in the Official Gazette, put into operation a scheme to be called the Emergency Risks (Undertakings) Insurance Scheme, whereby the Central Government undertakes the liability of insuring property insurable under this Act against emergency risks, to the extent provided by or under this Act.

(2) The Scheme may extend to the undertaking by the Central Government in relation to any person in India of the liability of insuring such person against emergency risks in respect of any property insurable under this Act which is not owned by him but in which he has an interest, up to the extent of such interest.

(3) The Scheme shall be such as to secure—

(a) that the liability of the Central Government as insurer shall not extend to more than eighty per cent. of the insurable value of the property insurable;

(b) that any liability of the Central Government as insurer under the Scheme is determined by a policy of insurance issued, in the form and in respect of a period not exceeding the period specified in the Scheme, by a person acting on behalf of the Central Government;

Provided that the form of policy may be such as to limit the extent and nature of the indemnity provided by the Central Government and to impose conditions subject to which the indemnity is provided:

Provided further that the form of policy shall be such as to provide that no liability shall arise thereunder unless the premium in relation to the period in which any loss or damage occurs has been paid before the occurrence of such loss or damage;

(c) that any premium under a policy so issued is payable at a rate not exceeding three per cent. per annum of the sum insured as may be specified in the Scheme:

Provided that nothing in this clause shall prevent the securing by the Scheme of different rates of premium in relation to properties of different descriptions insurable under this Act owned by any undertaking to which this Act applies;

(d) that the amount of any one premium payable under a policy so issued is not less than such sum as may be specified in the Scheme.

(4) The Scheme may provide—

(a) for undertaking in relation to works in course of construction which, when completed, will become properties insurable under the Act and such plant and machinery appertaining to such works as may be specified in the Scheme, the same liabilities as are undertaken by the Scheme in relation to the undertakings;

(b) that the payments due under a policy of insurance issued under the Scheme, may at the

option of the Central Government, take either of the following forms, namely:—

(i) payment, within the limits of the liability assumed by the Central Government and in such manner and by such instalments as the Central Government may think fit, of the cost necessary to restore the property as far as practicable to the condition in which it existed before the occurrence of the damage, or

(ii) compensation, within the aforesaid limits, for the loss in value, ascertained on the basis of values and prices ruling at the time at which the policy of insurance was taken out, or at which the loss occurred, whichever is less, suffered by the property as a result of the damage, after due allowance has been made for depreciation during the period of insurance cover;

(c) that payments due under a policy of insurance under the Scheme may be postponed to any time before the expiry of one year from the date on which this Act ceases to be in force, or, subject to payment of interest at the rate of two per cent. per annum from the expiry of the said year, to any later date;

(d) for making it an express or implied condition of any policy of insurance issued under the Scheme—

(i) that the owner or occupier of a factory or owner of other undertakings mentioned in sub-section (1), as the case may be, shall comply with all regulations or instructions made or issued under the authority of Government for safeguarding the property against damage from emergency risks, or

(ii) that, where the Central Government exercises its option to pay the cost necessary to restore the property to its original condition the owner of the undertaking shall if so required by the Central Government, reconstruct the property or remove the property to and reconstruct it in another locality.

(5) Different forms of policies may be specified in the Scheme under sub-section (3) in relation to different classes of undertakings.

(6) The Central Government may, by notification in the Official Gazette, add to, amend or vary any Scheme made under this Act.

(7) Every Scheme shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the Scheme.

4. Employment of agents by the Central Government.—The Central Government may, by notification in the Official Gazette, employ or authorise the employment of any person to act as its agent for the issue of policies and making recommendations

for the settlement of claims under the Scheme, and may pay to the person so employed such remuneration as it may think fit.

5. Duty of owners of undertakings to insure against emergency risks.— (1) While the Scheme is in operation, every owner of an undertaking to which this Act applies, shall,—

(a) by such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, or

(b) in respect of property becoming property insurable under this Act after the date specified under clause (a), or in a case to which sub-section (2) refers, before the commencement of the quarter next following that in which,—

(i) the property becomes insurable under this Act, or

(ii) the reconstruction of the property is completed,

take out a policy of insurance against emergency risks issued in accordance with the Scheme whereby he is insured in respect of all property insurable under this Act which appertains to the undertaking for a sum which is not less than the insurable value of such property;

Provided that where the undertaking is a factory and the owner thereof is not himself the occupier of the factory, the occupier of the factory shall, unless the owner has already taken out a policy of insurance as required by this sub-section, himself take out the policy, and in such a case the occupier shall be deemed to act as the agent of the owner and shall be entitled to receive from the owner all sums paid as premiums on the policy:

Provided further that in the case of a trading Corporation or body of Port Trustees or Commissioners or any other person whose inland vessels become insurable under this Act, the policy of insurance taken out shall be for a sum not less than the insurable value of such vessels, fuel and stores; and this obligation shall in the case of a trading Corporation incorporated outside India rest upon the manager of the principal place of business in India of the Corporation.

(2) The obligation imposed by sub-section (1) includes, when the owner of the undertaking is required by the Central Government to reconstruct the property which has suffered damage, an obligation to take out an additional policy of insurance as required by the sub-section in respect of the reconstructed property.

(3) When an undertaking in respect of which a policy of insurance against emergency risks has been taken out as required by this section is transferred from one owner to another or there is a change of occupier of an undertaking which is a factory, the policy may be transferred to the new owner or occupier and such new owner or occupier shall succeed to all rights and liabilities under and in relation to the policy as if the policy had been in the first instance taken out by him.

(4) Whoever contravenes the provisions of sub-section (1) or the proviso thereto, or, having taken out a policy of insurance as required by that sub-section, fails to pay any premium which is due

thereon, shall be punishable with fine which may extend to two thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention or failure continues, and such punishment shall be without prejudice to any other penalty or liability incurred in consequence of such contravention or failure.

(5) Where any offence under sub-section (4) is tried by a Presidency Magistrate or a magistrate of the first class, then, notwithstanding anything contained in the Code of Criminal Procedure, 1898, the magistrate trying the offence may pass any sentence authorised by that sub-section.

5 of 1898

6. Restrictions on carrying on certain insurance business.— (1) After the date on which the Scheme is put into operation, no person shall, except as a person authorised by the Central Government as its agent to issue policies in pursuance of the Scheme, carry on the business of insuring undertakings to which this Act applies in India against emergency risks in respect of property insurable under this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention continues.

7. Emergency Risks (Undertakings)

Insurance Fund.— (1) The Central Government may, after due appropriation made by Parliament by law in this behalf, transfer in each financial year, to a fund to be called the Emergency Risks (Undertakings) Insurance Fund such sums, as may be considered necessary, not exceeding the sums received by the Central Government by way of insurance premiums under the Scheme, or by way of payments made on composition of offences under section 13 or by way of expenses or compensation awarded by a Court, under section 545 of the Code of Criminal Procedure, 1898, out of any fine imposed in any prosecution under this Act.

5 of 1898

(2) There shall be paid from out of the Fund all sums required for the discharge by the Central Government of any of its liabilities under the Scheme, or for payments by the Central Government under section 10, or for the payment by the Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme.

(3) If at any time when a payment is to be made out of the Fund the sum standing to the credit of the Fund is less than the sum required for the making of that payment, an amount equal to the deficiency shall, after due appropriation made by Parliament by law, be paid into the Fund as an advance out of the Consolidated Fund of India.

(4) If at any time the amount standing to the credit of the Fund exceeds the sum which, in the opinion of the Central Government, is likely to be

required for the making of payments out of the Fund, the excess shall be disposed of in such manner as the Central Government may think fit.

(5) The Central Government shall prepare in such form and manner as may be specified in the Scheme and shall publish either annually or at such shorter intervals as may be specified therein, an account of all sums received into and paid out of the Fund.

CHAPTER III

Miscellaneous

8. Power of Central Government to obtain information.—(1) Any person authorised in this behalf by the Central Government may, for the purpose of ascertaining whether or not the owner or occupier of any property required to be insured under this Act has taken out a policy of insurance as required by this Act in respect of such property, or for the purpose of investigating the insurable value of any property insured, or required to be insured, or proposed for insurance under this Act, or for the purpose of estimating the damage suffered by any property insured under this Act,—

(a) require the owner or occupier of the property, or any person carrying on in India the business of fire insurance in respect of the property, to submit to him such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary, or

(b) at any reasonable time, enter any premises comprising or containing the property, inspect such premises or property, and require any person found on such premises, who is for the time being in charge thereof, or in control thereof, or whom he believes to be in possession of information relevant to his investigation, to produce to him and allow him to examine such accounts, books or other documents as he may think necessary, or to furnish to him such other information as he may reasonably think necessary.

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without reasonable excuse to comply with any demand made thereunder shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to one thousand rupees.

(3) Whoever, in purporting to comply with his obligations under this section, knowingly or recklessly makes a statement false in a material particular shall be punishable with fine which may extend to one thousand rupees.

(4) Where in any proceedings in respect of a contravention of section 5 in relation to any undertaking, it is proved, in relation to that undertaking—

(a) that a demand for the production of a policy of insurance issued in accordance with the Scheme insuring the owner or occupier of the insurable property was duly made under this section and was not complied with, and

(b) that the person making the demand was not satisfied that there was such a policy in existence,

it shall be presumed, except in so far as the contrary is proved, that the said section 5 was being contravened in relation to that undertaking at the time

when the demand was made and continued to be contravened in relation to that undertaking at all times thereafter.

9. Punishment for giving false information.—If any person, for the purpose of obtaining for himself or any other person any payment in respect of any damage due to any action of the enemy or under a policy issued in pursuance of the Scheme,—

(a) furnishes any information which he knows to be false in a material particular, or recklessly furnishes any information which is false in a material particular, or

(b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any book, account or other document which is false in a material particular, or

(c) with intent to deceive, withholds any material information,

he shall be punishable with fine which may extend to five thousand rupees, or with imprisonment for a term not exceeding three months, or with both.

10. Payment towards cost of removal and reconstruction of insurable property.—Where the Central Government requires the owner of an undertaking to remove the insurable property and to reconstruct it in another locality, the Central Government shall make to such owner, out of the Fund, such payments, in addition to any sum payable under policy of insurance, as it considers sufficient to defray the cost of the removal and, if necessary, the replacement of any part of the property in respect of which no compensation is payable.

11. Determination of premiums unpaid.—(1) Where any person has failed to insure as, or to the full amount, required by this Act, and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by the Central Government may determine the amount, payment of which has been so evaded, and thereupon such person shall be liable, without prejudice to any other action that may be taken against him under this Act, to pay to the Central Government, as penalty, an amount equal to the amount so determined, and if no such payment is made on demand by the authorised officer, the amount of the penalty shall be recoverable from such person as an arrear of land revenue.

(2) A person against whom a determination is made under sub-section (1) may, within the period specified in the Scheme, appeal against such determination to the Central Government whose decision thereon shall be final.

12. Limitation on prosecutions.—No prosecution for any offence punishable under this Act shall be instituted against any person except by, or with the consent of, the Central Government or an authority authorised in this behalf by the Central Government.

13. Composition of offences.—Any offence punishable under sub-section (4) of section 5 may, either before or after the institution of the prosecution, be compounded by the Central Government, or by any authority authorised in this behalf by the Central

Government, on payment for credit to the Fund of such sum as the Central Government or such authority, as the case may be, thinks fit.

14. Bar of legal proceedings. — (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

(2) No suit shall be maintainable in any civil court against the Central Government, or a person acting as its agent under section 4, for the refund of any money paid or purporting to have been paid as premium on a policy of insurance taken out or purporting to have been taken out under this Act.

15. Power to exempt undertakings. — (1) The Central Government may, by notification in the Official Gazette, exempt any class or description of undertakings from the provisions of this Act requiring properties insurable in relation to such undertakings to be insured or to continue to be insured under this Act; but such exemption shall not prejudice the infliction of any penalty or the accrual of any liability incurred before the date on which the exemption takes effect.

(2) In granting any exemption under this section the Central Government may direct that the exemption shall take effect or be deemed to have taken effect on a specified date after or before the date of the notification.

16. Refund of premiums in certain cases. — (1) Where any property has been insured by any owner or occupier thereof for any period, and before that period has elapsed the property or the property of that description has ceased, by virtue of a notification under sub-section (1) of section 15, to be insurable under this Act, the person who has insured the property shall be entitled to a proportionate refund of the premium.

(2) Where a policy of insurance has been taken out in relation to a property which is not insurable under this Act and premium has been paid in relation to such policy, or where any premium has been paid in respect of a property which has ceased to be insurable under this Act, or where, in relation to a property insurable under this Act, premium has been paid in excess of the amount due under the policy, the person making such payment or excess payment, as the case may be, shall be entitled to a refund of the whole of the amount so paid or paid in excess as the case may be.

(3) If it is established to the satisfaction of the Central Government that a policy of insurance under the Scheme has been taken out separately by two or more persons in respect of the same property, the policy taken out by any one such person may, on an application made by him and after such inquiry as the Central Government may think fit, be cancelled and thereupon the premium paid on such policy shall be refunded to the person by whom it was paid unless such person has recovered the premium from any other person, in which case, the refund shall be made to that other person:

Provided that no refund shall be made under this section unless the application for the refund is made before the expiry of six months from the date when the premium was paid.

17. Removal of doubts. — If any doubt arises as to whether a person is insurable in respect of any property insurable under this Act, the Central Government may, by order, make such directions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of such doubt.

18. Notification under section 15 to be laid before Parliament. — A copy of every notification made by the Central Government under section 15, shall be laid after it has been made, on the Table of each House of Parliament when such House is in session for a period of thirty days or for the duration of the session in which it is so laid, whichever period is less.

Notification

LD/6/72-B

The Emergency Risks (Goods) Insurance Act, 1971 (50 of 1971) which was recently passed by the Parliament and assented to by the President of India is hereby published for the general information of the public.

V. L. Dandwate, Under Secretary.

Panaji, 14th January, 1972.

The Emergency Risks (Goods) Insurance Act, 1971

AN

ACT

to make certain provisions for the insurance of goods in India against damage arising from emergency risks and matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. Short title, extent and duration. — (1) This Act may be called the Emergency Risks (Goods) Insurance Act, 1971.

(2) It extends to the whole of India.

(3) It shall remain in force during the period of operation of the Proclamation of Emergency issued by the President under clause (1) of article 352 of the Constitution of India on the 3rd day of December, 1971, and for such further period as the Central Government may, by notification in the Official Gazette, declare to be the period of emergency for the purposes of this Act, but its expiry shall not affect anything done or omitted to be done before such expiry and section 6 of the General Clauses Act, 1897, shall apply upon the expiry of this Act as if it had been repealed by a Central Act.

2. Definitions.—In this Act, unless the context otherwise requires, —

(a) “emergency risks” means such risks arising from, —

(i) action taken by an enemy or action taken in combating an enemy or in repelling an imagined attack by an enemy;

(ii) any explosion or fire which involves explosives or munitions or other dangerous things required for the purposes of defence against any action of an enemy and which happens or is caused by, through, or in connection with, the manufacture, storage or transportation of any such explosives, munitions or other dangerous things;

(iii) measures taken under proper authority to avoid the spreading of or otherwise to mitigate, the consequences of damage occurring (whether accidentally or not) as a direct result of any such action as is described in sub-clause (i) or of any such explosion or fire as is described in sub-clause (ii);

(iv) precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by an enemy, being measures involving a substantial degree of risk to property;

(v) precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action, being measures involving a substantial degree of risk to property;

(vi) precautionary or preparatory measures taken under proper authority with a view to denying facilities to an enemy, being measures involving a substantial degree of damage to or diminution of value of property;

(b) “enemy” means —

(i) any person or country committing external aggression against India;

(ii) any person belonging to a country committing such aggression;

(iii) such other country as may be declared by the Central Government to be assisting the country committing such aggression;

(iv) any person belonging to such other country;

(c) “Fund” means the Emergency Risks (Goods) Insurance Fund constituted under section 10;

(d) “goods” means any materials, commodities or articles and includes materials, commodities or articles used in or for the construction or repair of any ship up to the time at which the ship after completion of construction, or repair, is launched;

(e) “insurable value” means the value of goods as ascertained for the purposes of insurance under this Act;

(f) “policy” or “policy of insurance” means a contract of insurance issued under the Scheme and includes a policy of insurance and renewal endorsement;

(g) “quarter” means a period of three months commencing on the first day of January, April, July or October;

(h) “Scheme” means the Emergency Risks (Goods) Insurance Scheme made under this Act;

(i) “seller of goods” includes a seller of goods acting as an agent;

(j) “supplier of goods” means a person carrying on a business in the course of which he supplies goods for the purpose of or in pursuance of, contracts made by him for work, labour, or materials.

CHAPTER II

Insurable goods and Insurance Scheme

3. Goods insurable under this Act.—(1) Subject to the provisions of this section, the following goods shall, in relation to any person carrying on business in India as a seller or supplier of goods of any description, be deemed to be goods insurable under this Act, that is to say, all goods situated in India or, consigned from one place in India to another place in India and in transit, being either —

(i) goods of that description, or

(ii) goods used as material from which goods of that description are produced or as ingredients or component parts of goods of that description;

Provided that no goods shall be deemed to be insurable under this Act —

(a) in relation to any person, being the owner of the goods, who carries on business as a seller of goods, unless they are owned by him with a view to being sold, or to being used as material for the production of goods to be sold, or as ingredients or component parts of goods to be sold;

(b) in relation to any person, being the owner of the goods, who carries on business as a supplier of goods, unless they are owned by him with a view to being supplied for the purpose of, or in pursuance of, a contract made by him for work, labour and materials or to being used as material for the production of goods to be supplied as aforesaid or as ingredients or component parts of goods to be supplied;

(c) in respect of a period in relation to any person carrying on business in India as a seller or supplier of goods of any description, if such goods are, before payment has been made of the premium under this Act for that period, in the custody, control or possession of the enemy.

(2) The Central Government may, by notification in the Official Gazette, direct that goods of any description specified in the notification shall, notwithstanding anything contained in this section, be deemed not to be goods insurable under this Act and a copy of such notification shall be laid after it is made, on the Table of each House of Parliament when such House is in session for a period of thirty days or for the duration of the session in which it is laid, whichever period is less.

(3) Nothing in sub-section (1) shall apply in relation to goods which are owned by Government or in respect of which the Government is the seller or supplier.

4. Ownership.—(1) Save in so far as is otherwise expressly provided in this Act, any goods shall, subject to the provisions of this section, be deemed, for the purposes of this Act, to be owned, —

(a) if the property in the goods is for the time being vested in a person in relation to whom they are insurable under this Act, by that person;

(b) if the property in the goods is not so vested, by any person in relation to whom the goods are insurable under this Act and who is for the time being entitled, either unconditionally or conditionally, to have the property in the goods vested in him:

Provided that where —

(i) any goods would, under the foregoing provisions of this section, be deemed to be owned by a person in whom the property therein is vested otherwise than in the course of a business carried on by him in India, or who is entitled to have the property therein vested in him otherwise than in the course of such business, and

(ii) any person carrying on business in India is for the time being entitled to sell the goods as agent,

the goods shall be deemed to be owned by the last mentioned person.

(2) Where in the course of any business a ship is being, or has been, constructed under contract, and the ship or any part thereof or any goods appropriated for the construction thereof —

(a) would, apart from the provisions of this sub-section, have been deemed for the purposes of this Act to be owned at any time by the person from time to time carrying on the business, or

(b) have at any time been accepted, in pursuance of a contract made with him, by the person from time to time carrying on the business,

then, notwithstanding that they would not, apart from the said provisions, be deemed for the said purposes to be owned by the person from time to time carrying on the business, the ship and any part thereof and any goods so appropriated as aforesaid shall, subject to the provisions of sub-section (3), be deemed, in a case to which clause (a) of this sub-section applies, to continue to be owned by the person from time to time carrying on the business until the acceptance of the ship, in pursuance of the contract in question, by the person for whom it is being or has been, constructed, and in a case to which clause (b) of this sub-section applies, to be owned by the person from time to time carrying on the business at all times between the acceptance referred to in the said clause (b) and the acceptance of the ship as aforesaid by the person for whom it is being, or has been, constructed.

(3) The provisions of sub-section (2) shall apply in relation to the construction under contract in the course of a business of part of a ship, not being part of a ship which is being, or has been, constructed by the person from time to time carrying on the business, as they apply in relation to the construction of a ship —

(a) with the substitution for references to a ship of references to part of a ship;

(b) where the contract for the part of the ship is with the person for whom the ship is being constructed, with the substitution for references to the acceptance of the ship under the contract in question of references to the acceptance of the ship under the contract for the construction thereof;

(c) where the contract for the part of the ship is with any other person, with the substitution for references to the acceptance of the ship under the

contract in question of references to the acceptance of the part of the ship under the contract for the construction of the part by the person for whom it is being, or has been, constructed.

(4) Where the person from time to time carrying on a business receives any money, under a policy issued in pursuance of the Scheme, in respect of the loss of or damage to a ship, part of a ship or goods which are deemed to be owned by him by virtue of sub-section (2) or sub-section (3), the money shall be held by him on trust for the person who, apart from the provisions of those sub-sections, would be deemed for the purposes of this Act to be the owner of the ship, part or goods, subject, however, to any lien or charge which would otherwise be enforceable against the ship, part or goods and subject also to the right to retain out of the money the amount of any expenses reasonably incurred by the first mentioned person in making good any part of the loss or damage which he is liable to make good.

5. Emergency Risks (Goods) Insurance Scheme. —

(1) The Central Government may, by notification in the Official Gazette, put into operation a scheme to be called the Emergency Risks (Goods) Insurance Scheme, whereby the Central Government undertakes in relation to persons carrying on business in India as sellers or suppliers of goods, the liability of insurance of such persons against emergency risks, to the extent provided by or under this Act, in respect of goods insurable under this Act which are from time to time owned by such persons in the course of such business.

(2) The Scheme may also extend —

(a) to the undertaking by the Central Government, in relation to any person carrying on business in India as seller or supplier of goods, of the liability of insuring such a person against emergency risks in respect of goods insurable under this Act which are not owned by him but in which he has an interest arising in the course of that business;

(b) without prejudice to the provisions of clause (a) of this sub-section, to the undertaking by the Central Government, in relation to a person carrying on any business in India, of the liability of insuring such a person against emergency risks in respect of —

(i) any goods situated in India which are in his possession, otherwise than under a hire purchase agreement, for the purposes of that business,

(ii) any goods situated in India which are subject to a mortgage, pledge or charge in his favour held by him in the course of that business,

being in either case goods which are not owned by him but which are insurable under this Act in relation to the person by whom they are owned;

(c) to the undertaking by the Central Government, in relation to a person carrying on any business in India, of the liability of insuring such person against emergency risks in respect of any goods situated in India, which having been sold in India, for export from India, are in his possession for the purpose of such export and are goods which were prior to such sale insurable under this Act

in relation to the person by whom they were then owned;

(d) to the undertaking by the Central Government, in relation to any person carrying on any business in India as a seller or supplier of goods, of the liability of insuring such a person against emergency risks in respect of goods imported into India through any port of India, while such goods are situated at such port or are in transit to a place in India.

(3) The Scheme shall be such as to secure —

(a) that the liability of the Central Government as insurer shall not extend to more than eighty per cent. of the insurable value of the property insurable;

(b) that any liability of the Central Government as insurer under the Scheme is determined by a policy of insurance issued, in the form and in respect of a period not exceeding the period specified in the Scheme, by a person acting on behalf of the Central Government:

Provided that the form of policy may be such as to limit the extent and nature of the indemnity provided by the Central Government and to impose conditions subject to which the indemnity is provided:

Provided further that the form of policy shall be such as to provide that no liability shall arise thereunder unless the premium in relation to the period in which any loss or damage occurs has been paid before the occurrence of such loss or damage;

(c) that any premium under a policy so issued is payable at a rate not exceeding three per cent. per annum of the sum insured as may be specified in the Scheme; and

(d) that the amount of any one premium payable under a policy so issued is not less than such sum as may be specified in the Scheme.

(4) Different forms of policies may be specified under sub-section (3) in relation to different descriptions of goods.

(5) The Central Government may, by notification in the Official Gazette, add to, amend or vary any Scheme made under this Act.

(6) Every Scheme shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the Scheme or both Houses agree that the Scheme should not be made, the Scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the Scheme.

6. Employment of agents by Central Government. The Central Government may, by notification in the Official Gazette, employ or authorise the employment of any person to act as its agent for the issue of policies, and making recommendations for the sett-

lement of claims, under the Scheme, and may pay to the person so employed such remuneration as it may think fit.

CHAPTER III

Compulsory Insurance

7. Power to make insurance compulsory. — (1) While the Scheme is in operation, no person shall, after such date as may be specified in this behalf by the Central Government by notification in the Official Gazette, carry on any business in India as a seller or supplier of goods, unless, in respect of any goods insurable under this Act which are for the time being owned by him in the course of that business, there is in force a policy of insurance against emergency risks issued in accordance with the Scheme, whereby he is insured in respect of such goods for a sum not less than the value thereof for the time being:

Provided that the Scheme shall not restrict the carrying on of business as aforesaid by any persons, if and so long as the value of all goods insurable under this Act which are for the time being owned by him within one and the same Presidency town or district in the course of that business does not exceed fifty thousand rupees.

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to one thousand rupees and with further fine which may extend to five hundred rupees for every day after the first on which the contravention continues.

8. Omission to insure or to insure up to the full amount. — (1) Where any person has failed to insure as, or to the full amount, required by this Act, and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by the Central Government may determine the amount of payment of which has been so evaded, and thereupon such person shall be liable, without prejudice to any other action that may be taken against him under this Act, to pay to the Central Government, as penalty, an amount equal to the amount so determined, and if no such payment is made on demand by the authorised officer, the amount of the penalty shall be recoverable from such person as an arrear of land revenue.

(2) A person against whom a determination is made under sub-section (1) may, within the period specified in the Scheme, appeal against such determination to the Central Government whose decision thereon shall be final.

9. Restrictions on carrying on of certain insurance business. — (1) After the date on which the Scheme is put into operation, no person shall, except as a person authorised by the Central Government as its agent to issue policies in pursuance of the Scheme, carry on any business of insuring persons carrying on business in India as sellers or suppliers of goods against emergency risks in respect of goods insurable under this Act which are from time to time owned by such persons in the course of such business as is last mentioned.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may

extend to five thousand rupees and with further fine which may extend to one thousand rupees for every day after the first on which the contravention continues.

10. Emergency Risks (Goods) Insurance Fund.—(1) The Central Government may, after due appropriation made by Parliament by law in this behalf, transfer in each financial year to a fund to be called the Emergency Risks (Goods) Insurance Fund such sums, as may be considered necessary, not exceeding the sums received by the Central Government by way of insurance premiums under the Scheme, or by way of payment made on composition of offences under section 15 or by way of expenses or compensation awarded by a court, under section 545 of the Code of Criminal Procedure, 1898, out of any fine imposed in any prosecution under this Act. 5 of 1898

(2) There shall be paid from out of the Fund all sums required for the discharge by the Central Government of any of its liabilities under the Scheme or for the payment by the Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme.

(3) If at any time when a payment is to be made out of the Fund, the sum standing to the credit of the Fund is less than the sum required for the making of that payment, an amount equal to the deficiency shall, after due appropriation made by Parliament by law, be paid into the Fund as an advance out of the Consolidated Fund of India.

(4) If at any time the amount standing to the credit of the Fund exceeds the sum which, in the opinion of the Central Government, is likely to be required for the making of payments out of the Fund, the excess shall be disposed of in such manner as the Central Government may think fit.

(5) The Central Government shall prepare, in such form and manner as may be specified in the Scheme and shall publish either annually or as such shorter intervals as may be specified therein, an account of all sums received into and paid out of the Fund.

CHAPTER IV

Miscellaneous

11. Power of Central Government to obtain information.—(1) Any person authorised in this behalf by the Central Government may, for the purpose of ascertaining whether or not the requirements of this Act have been complied with,—

(a) require any person carrying on in India the business of fire insurance or of a seller or supplier of goods to submit to him such accounts, books or other documents or to furnish to him such information as he may reasonably think necessary, or

(b) at any reasonable time, enter any premises occupied by any person carrying on in India the business of a seller or supplier of goods for the purposes of that business and may inspect the premises and require any person found therein who is for the time being in charge thereof, or in control of the business carried on therein, to pro-

duce to him and allow him to examine such accounts, books or other documents as may relate to the business carried on in the premises and to furnish to him such other information as he may reasonably require for the purpose of ascertaining whether or not and, if so, to what extent, the person carrying on the business is insured under the Scheme in respect of goods owned by him in the course of that business, and of ascertaining the value of any goods insurable under the Scheme which are, or were at any relevant time, owned by him in the course of that business and the maximum amount which would be recoverable in respect of any such goods under a policy issued under this Act.

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without any reasonable excuse to comply with a demand made thereunder, shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to five hundred rupees.

(3) Whoever, in purporting to comply with his obligations under this section, knowingly or recklessly makes a statement which is false in a material particular, shall be punishable with fine which may extend to one thousand rupees.

(4) Where in any proceedings in respect of a contravention of section 7 in relation to any business, it is proved, in relation to that business,—

(a) that a demand for the production of a policy of insurance issued in accordance with the Scheme insuring the person carrying on the business was duly made under this section and was not complied with and

(b) that the person making the demand was not satisfied that there was such a policy in existence,

it shall be presumed, except in so far as the contrary is proved, that the said section 7 was being contravened in relation to that business at the time when the demand was made and continued to be contravened in relation to that business at all times thereafter.

12. Punishment for giving false information.—If any person, for the purpose of obtaining for himself or any other person any payment in respect of any damage due to the action of the enemy or under a policy issued in pursuance of the Scheme,—

(a) furnishes any information which he knows to be false in a material particular, or recklessly furnishes any information which is false in a material particular, or

(b) with intent to deceive, produces, furnishes, sends or otherwise makes use of any book, account or other document which is false in a material particular, or

(c) with intent to deceive, withholds any material information,

he shall be punishable with fine which may extend to five thousand rupees, or with imprisonment for a term not exceeding three months, or with both.

13. Refund of premiums in certain cases.—(1) Where goods of any description have been insured by a seller or supplier of goods for any period, and before

that period has elapsed the goods of that description have ceased, by virtue of a notification under sub-section (2) of section 3 to be goods insurable under this Act, the person who has insured such goods shall be entitled to a proportionate refund of the premium.

(2) Where a policy of insurance has been taken out in relation to goods which are not insurable under this Act and premium has been paid in relation to such policy, or where any premium has been paid in respect of goods which have ceased to be insurable under this Act, or where, in relation to goods insurable under this Act, premium has been made in excess of the amount due under the policy, the person making such payment or excess payment, as the case may be, shall be entitled to a refund of the whole of the amount so paid or paid in excess, as the case may be.

(3) If it is established to the satisfaction of the Central Government that a policy of insurance under the Scheme has been taken out separately by two or more persons in respect of the same goods, the policy taken out by any one such person may, on an application made by him and after such inquiry as the Central Government may think fit, be cancelled and thereupon the premium paid on such policy shall be refunded to the person by whom it was paid unless such person has recovered the premium from any other person, in which case, the refund shall be made to that other person:

Provided that no refund shall be made under this section unless the application for the refund is made before the expiry of six months from the date when the premium was paid.

(4) No suit shall be maintainable in any civil court against the Central Government or any person acting as the agent of the Central Government under section 6 for the refund of money paid or purporting to have been paid as premium in respect of any policy issued or purporting to have been issued under this Act.

14. **Limitation on prosecution.**—No prosecution for any offence punishable under this Act shall be instituted against any person except by, or with the consent of, the Central Government or an authority authorised in this behalf by the Central Government.

15. **Composition of offence.**—Any offence punishable under sub-section (2) of section 7, or sub-section (2) of section 9 may, either before or after the institution of the prosecution, be compounded by the Central Government or by any authority authorised in this behalf by the Central Government, on payment for credit to the Fund of such sum as the Central Government or such authority, as the case may be, thinks fit.

16. **Bar of legal proceedings.**—No suit, prosecution or other legal proceeding shall lie against the Central Government or against any person for anything which is in good faith done or intended to be done under this Act.

17. **Removal of doubts.**—If any doubt arises as to whether a person is insurable in respect of any goods under this Act, the Central Government may, by order, make such provision or give such direction, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for the removal of such doubt.

Notification

LD/12/72

The Companies (Surcharge on Income-Tax) Act, 1971 (62 of 1971) which was recently passed by the Parliament and assented to by the President of India is hereby published for the general information of the public.

M. S. Borkar, Under Secretary (Law).

Panaji, 24th January, 1972.

The Companies (Surcharge on Income-Tax) Act, 1971

AN

ACT

to provide for the levy of a surcharge on income-tax payable in advance by companies during the financial year 1971-72 under the Income-tax Act, 1961.

Be it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Companies (Surcharge on Income-tax) Act, 1971.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Income-tax Act" means the Income-tax Act, 1961; 43 of 1961.

(b) all words and expressions used in this Act shall have the meanings respectively assigned to them in the Income-tax Act.

3. **Levy of surcharge on income-tax payable by companies during 1971-72.**—(1) Every company which is liable to pay advance tax under section 210 or section 212 of the Income-tax Act during the financial year commencing on the 1st day of April, 1971, shall, in addition to the advance tax so payable, pay to the credit of the Central Government on or before the 15th day of March, 1972, a further sum, by way of surcharge on income-tax, calculated at the rate of two and one-half per cent of the amount specified in sub-section (2).

(2) The amount referred to in sub-section (1) shall be—

(i) in a case where advance tax is required to be paid by an order under sub-section (1) or sub-section (3) of section 210 of the Income-tax Act, the amount specified in such order;

(ii) in a case where advance tax is payable under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212 of the Income-tax Act on the basis of the estimate furnished by the company, the amount of advance tax so payable.

(3) Any sum required to be paid by a company as surcharge on income-tax under sub-section (1) shall be paid without any notice of demand to the company in that behalf from the Income-tax Officer.

4. **Mode of recovery.**—If the sum required to be paid under sub-section (1) of section 3 is not paid on or before the 15th day of March, 1972, the com-

pany shall be deemed to be an assessee in default and —

(a) the company shall be liable to pay simple interest at nine per cent. per annum from the 16th day of March, 1972;

(b) all the provisions of sections 221 to 227, section 229, section 231 and section 232 of the Income-tax Act and the Second and Third Schedules to that Act and any rules made thereunder shall, so far as may be, apply as if the said provisions were the provisions of this Act and referred to surcharge on income-tax and sums imposed by way of penalty and interest under this Act instead of to income-tax and sums imposed by way of penalty and interest under that Act and as if references to sub-section (2) of section 220 were references to clause (a) of this section.

5. Credit for surcharge.— Any sum paid by or recovered from a company as surcharge on income-tax in pursuance of this Act shall be treated as a payment of tax under the Income-tax Act in respect of the income of the period which would be the previous year for the assessment year commencing on the 1st day of April, 1972, and credit therefor shall be given to the company for the purposes of assessment under section 140A, section 141A, section 143 or section 144 of the Income-tax Act.

Notification

LD/2/72

The following Act passed by the Legislative Assembly of Goa, Daman and Diu received the assent of the President of India on the 25th July, 1972, and is hereby published for general information.

The Maharashtra Co-operative Societies (Second Goa, Daman and Diu Amendment) Act, 1971

(Act No. 1 of 1972) [25th January, 1972]

AN

ACT

to amend the Maharashtra Co-operative Societies Act, 1960 as extended to the Union territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-second Year of the Republic of India as follows:—

1. Short title and commencement.— (1) This Act may be called the Maharashtra Co-operative Societies (Second Goa, Daman and Diu Amendment) Act, 1971.

(2) It shall come into force on such date as the Administrator, Goa, Daman and Diu may, by notification in the Official Gazette, appoint.

2. Insertion of new section 13A.— After section 13 of the Maharashtra Co-operative Societies Act, 1960 as extended to the Union territory of Goa, Daman and Diu (hereinafter referred to as the "principal Act") the following section shall be inserted, namely:—

"13A. Power to direct amendment of bye-laws.— (1) If it appears to the Registrar that an amendment of the bye-laws of a society is necessary or desirable in the interest of such society he may call upon the society, in the manner prescribed, to make the amendment within such time as he may specify.

(2) If the society fails to make the amendment within the time specified, the Registrar may, after giving the society an opportunity of being heard and after consulting such State federal society as may be notified by the State Government, register such amendment and issue to the society a copy of such amendment, certified by him. With effect from the date of the registration of the amendment in the manner aforesaid, the bye-laws shall be deemed to have been duly amended accordingly; and the bye-laws as amended shall, subject to appeal (if any), be binding on the society and its members."

3. Insertion of new section 17A.—After section 17 of the principal Act, the following section shall be inserted, namely:—

"17A. Power to direct amalgamation, division and re-organisation in public interest, etc.—(1) Where the Registrar is satisfied that it is essential in the public interest, or in the interest of the co-operative movement, or for the purpose of securing the proper management of any society, that two or more societies should amalgamate or any society should be divided to form two or more societies or should be reorganised, then notwithstanding anything contained in the last preceding section but subject to the provisions of this section, the Registrar may, after consulting such federal society as may be notified by the State Government, by order published in the Official Gazette provide for the amalgamation, division or reorganisation of those societies into a single society, or into societies, with such constitution, property, rights, interests and authorities, and with such liabilities, duties and obligations, as may be specified in the order.

(2) No order shall be made under this section, unless —

(a) a copy of the proposed order has been sent in draft to the society or each of the societies concerned;

(b) the Registrar has considered and made such modifications in the draft order as may seem to him desirable in the light of any suggestions and objections which may be received by him within such period (not being less than two months from the date on which the copy of the order as aforesaid was received by the society) as the Registrar may fix in that behalf, either from the society, or from any member or class of members thereof, or from any creditor or class of creditors.

(3) The order referred to in sub-section (1) may contain such incidental, consequential and supplemental provisions as may, in the opinion of the Registrar, be necessary to give effect to the amalgamation, the division or the reorganisation.

(4) Every member or creditor of each of the societies to be amalgamated, divided or reorganised, who has objected to the scheme of amalgamation, division or reorganisation, within the period specified, shall be entitled to receive, on the issue of the order of amalgamation, division or reorganisation his share or interest if he be a member, and the amount in satisfaction of his dues if he be a creditor.

(5) On the issue of an order under sub-section (1), the provisions of sub-sections (2), (3) and (4) of section 17 shall apply to the societies so amalgamated, divided or reorganised as if they were amalgamated, divided or reorganised under that section, and to the society amalgamated, divided or reorganised."

4. **Amendment of section 78.**—After sub-section (2) of section 78 of the principal Act, the following sub-section shall be inserted, namely:—

"(2A) The Registrar may fix the remuneration payable to the administrators and any expenses of management which shall be payable out of the funds of the society within such time and at such intervals as the Registrar may fix, and if such remuneration or expenses are not paid within such time or at such intervals, the Registrar may direct the person having custody of the funds of the society to pay to the administrators such remuneration and expenses in priority to any other payments (except land revenue, any arrears of land revenue or any sum recoverable from the society as arrears of land revenue) and such person shall, so far as the funds to the credit of the society allow, comply with the orders of the Registrar."

5. **Amendment of section 165.**—After clause (iii) of sub-section (2) of section 165 of the principal Act, the following clause shall be inserted, namely:—

"(iiia) prescribe the procedure to be followed and conditions to be observed for change of name or liability, amalgamation, transfer, division, conversion or reconstruction of society."

Secretariat,
Panaji,
7th February, 1972.

B. M. MASURKAR
Secretary to the Govt. of Goa,
Daman and Diu, Law and Judicial Department.

Notification

LD/1/72

The following Act passed by the Legislative Assembly of Goa, Daman and Diu received the assent of the President of India on the 25th July, 1972, and is hereby published for general information.

The Goa, Daman and Diu Salaries and Allowances of Members of the Legislative Assembly (Fourth Amendment) Act, 1971

[Act No. 2 of 1972] [25th January, 1972]

An Act further to amend the Goa, Daman and Diu Salaries and Allowances of Members of the Legislative Assembly Act, 1964 (No. 2 of 1965).

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-second Year of the Republic of India as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Goa, Daman and Diu Salaries and Allowances of Members of the Legislative Assembly (Fourth Amendment) Act, 1971.

(2) It shall be deemed to have come into force on the 1st day of April, 1969.

2. **Amendment of section 2.**—In section 2 of the Goa, Daman and Diu Salaries and Allowances of Members of the Legislative Assembly Act, 1964, for Explanation to clause (g), the following explanation shall be substituted, namely—

«*Explanation:*—A member who ordinarily resides at a place where a session of the Assembly or a sitting of a Committee is held or where any other business connected with his duties as such member is transacted shall, for the duration of the session or sitting or the time occupied for the transaction of other business (including the three or two days immediately preceding or succeeding), be deemed to reside at such place for the purpose of attending such session or sitting or, as the case may be, for purpose of attending to such other business».

Secretariat,
Panaji,
7th February, 1972

B. M. MASURKAR
Secretary to the Govt. of Goa,
Daman and Diu, Law and Judicial Department.